

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

NOV 14 2014
AT GREENBELT
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND
BY DEPUTY

LEONTE MACK

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Petitioner,

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v.

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Crim. No. PJM 09-0247
Civil No. PJM 12-2431

UNITED STATES OF AMERICA

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*

Respondent.

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MEMORANDUM OPINION AND ORDER

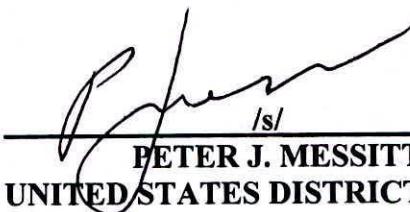
The matter comes before the Court on remand from the United States Court of Appeals for the Fourth Circuit for the limited purpose of determining whether Petitioner Leonte Mack timely filed an appeal of this Court's Order denying Mack's Motion to Vacate (the "Order," Paper No. 85).

A notice of appeal from the denial of habeas relief must be filed within sixty days of the date the order was issued. Fed. R. App. P. 4(a)(1)(B); Fed. R. App. P. 26(a)(1)(C). The Order in this case was filed on May 8, 2013, meaning that a notice of appeal, in order to be timely, must have been filed no later than July 8, 2013. Although Mack's Notice of Appeal was docketed on the electronic filing system on July 15, 2013 (Paper No. 87)—one week beyond the expiration of the sixty-day appeal period—an incarcerated individual's notice of appeal is deemed filed on the date it is properly delivered to prison officials for mailing to the court. *See* Fed. R. App. P. (c)(1); *Houston v. Lack*, 487 U.S. 266, 270–71 (1966)

The Court has received Mack's Memorandum in Support of Defendant's Motion to Vacate, Set Aside, or Correct a Sentence Under 28 U.S.C. § 2255 (Paper No. 106), in which he states that he delivered his notice of appeal to prison officials on or about June 5, 2013. The

government has indicated that it does not object to the Memorandum. Thus, the Court finds that Mack's notice of appeal was timely filed.

So ordered this 14 day of November 2014.



/s/
PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE